

Tatm Realty Corp. and Local 32E, Service Employees International Union, AFL-CIO. Case AO-345

January 13, 1997

ADVISORY OPINION

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND HIGGINS

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on December 16, 1996, Tatm Realty Corp. (the Employer), filed a petition for Advisory Opinion as to whether the Board would assert jurisdiction over its operations. In pertinent part, the petition alleges as follows:

1. A proceeding, SE-59251, is currently pending before the New York State Employment Relations Board (NYSERB) in which the Union is seeking to represent employees employed at the apartment building located at 243-253 W. 1st Street, Mount Vernon, New York (the building).

2. The Employer owns the building which is managed by 396 North Avenue Corporation, also known as Gem Property Management (Gem), 2150 Central Park Avenue, Yonkers, New York. Gem also manages other apartment buildings in Westchester County, including 245 N. Broadway, Yonkers, New York, owned by Green Towers, Inc.; 105 S. Fulton Avenue, Mount Vernon, New York, owned by Mak Enterprises, Inc.; and 101 Elm Avenue, Mount Vernon, New York, owned by Elm Gardens, Inc. As managing agent, Gem negotiates leases, collects rents, hires and terminates employees, pays their wages, purchases goods and services for the buildings, pays accounts payable, is responsible for arranging repairs and other maintenance services, and files tax returns for the buildings it manages.

3. During the past year, these buildings managed by Gem had aggregate gross revenues in excess of \$500,000 and purchased goods and services valued in excess of \$50,000 originating outside the State of New York.

4. The Employer is unaware whether the Union admits or denies the aforesaid commerce data and the NYSERB has not made any findings with respect thereto.

5. There are no representation or unfair labor practice proceedings involving the Employer pending before the Board.

Although all parties were served with a copy of the petition for Advisory Opinion, no response was filed.

Having duly considered the matter,¹ the Board is of the opinion that it would assert jurisdiction over the Employer. The Board has established a \$500,000 discretionary standard for asserting jurisdiction over residential buildings.² As the Employer alleges that the buildings managed by Gem generate in excess of \$500,000 per year in income, assuming that Gem is a single employer with respect to those buildings, it is clear that Gem satisfies the Board's discretionary standard. In addition, as the petition also alleges that Gem annually purchases over \$50,000 of materials or services from outside the State of New York, it also satisfies our statutory jurisdictional standards. Thus, assuming the Employer and Gem are joint employers or a single employer with respect to the building at 243-253 W. 1st Street, Mount Vernon, New York, it is clear that the Employer therefore also satisfies the Board's jurisdictional standards.³

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over the Employer.⁴

¹ The Board has delegated its authority in this proceeding to a three-member panel.

² See *Parkview Gardens*, 166 NLRB 697 (1967). The following findings are based on the assumption that the "apartment buildings" in question are residential buildings.

³ See *CID-SAM Management Corp.*, 315 NLRB 1256 (1995); 373-381 *South Broadway Associates*, 304 NLRB 1108 (1991). (Board aggregates commerce data of a single or joint employer for jurisdictional purposes.)

⁴ The Board's advisory opinion proceedings under Sec. 102.98(a) are designed primarily to determine whether an employer's operations meet the Board's "commerce" standards for asserting jurisdiction. Accordingly, the instant Advisory Opinion is not intended to express any view whether the Board would certify the Union as representative of the petitioned-for unit under Sec. 9(c) of the Act. See generally Sec. 101.40 of the Board's Rules.